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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,648	10/07/2003	Philip Orlando Underhill	PU8469US01	5103

27723 7590 09/08/2004

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EXAMINER

LEV, BRUCE ALLEN

ART UNIT PAPER NUMBER

3634

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

KB

Office Action Summary	Application No.	Applicant(s)	
	10/680,648	UNDERHILL, PHILIP ORLANDO	
	Examiner	Art Unit	
	Bruce A. Lev	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).


* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/7/03.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

BRUCE A. LEV
PRIMARY EXAMINER



DETAILED ACTION

Double Patenting

Claims 10 and 12-18 are objected to under 37 CFR 1.75 as being a substantial **duplicates of claims 3-9**. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

Claims 7 and 9 are rejected under 35 U.S.C. **112**, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. For example, the preamble clearly indicates that the subcombination of a ladder "stand-off" is being claimed with the functional recitation of the "stand-off" being used "for use with a ladder". However, the body of the claim positively recites the "ladder", e.g., "distance less than said ladder width" (claim 7), and "equal to said ladder width" (claim 9), which indicates the claims as being drawn to a combination of the "stand-off" and the "ladder". Therefore, the applicant is required to clarify what the claims are intended to be drawn to, i.e., either the "stand-off" alone or in combination with the "ladder", and to present the claims with the language which is consistent with the invention. The applicant should note that "*adapted to be*" language may be appropriate if claiming the "stand-off" alone (i.e., "*adapted to be secured to*").

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by ***Perry*** ***3,715,012***.

Perry sets forth a ladder stand-off comprising a beam 2; first and second arms 30 extending outwards from the beam and angularly divergent from each other (less than 90 degrees), wherein the attachment points to the beam are a distance less than that of the beam; means for detachably securing the beam to a ladder (inclusive of members 22); pivoting contact elements 10 at the end of each arm (viewed as L-shaped or U-shaped with a central web via the perpendicular attachment portion/flanges... best illustrated in Figures 1 and 2)

Conclusion

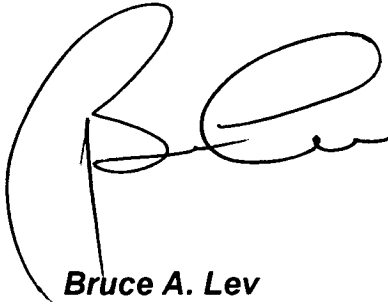
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Application/Control Number: 10/680,648
Art Unit: 3634

Page 4

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

9/1/04

A handwritten signature in black ink, appearing to read 'Bruce A. Lev'. The signature is stylized with a large, looped 'B' and a cursive 'Lev'.

Bruce A. Lev
Primary Examiner
Group 3600